

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ROBERTA WHIPPLE :

Plaintiff, :

V. :

MODESTA, INC., ANNA ZANIEWSKA :  
and KAZIMIERZ ZANIEWSKI :

Defendants. :  
-----X

CASE NO. 07 CIV 7368 (GEL)

**AFFIDAVIT FOR  
JUDGMENT BY DEFAULT**

STATE OF CONNECTICUT )

COUNTY OF FAIRFIELD )

SS:

ROBERT W. FINKE, being duly sworn, deposes and says:

1. I am a member of the Bar of this Court and am the attorney for the plaintiff in the above-entitled action and I am familiar with all of the facts and circumstances in this action.

2. I make this affidavit pursuant to Rules 55.1 and 55.2 (a) of the Civil Rules for the Southern District of New York, in support of the plaintiff's application for the entry of a default judgment against the defendants.

3. This action is to recover \$166,738.75 owed by defendants to the plaintiff for breach of a construction contract and fraud. None of the defendants are infants, in the military nor an incompetent person.

4. Jurisdiction of the subject matter in this action is based on diversity jurisdiction pursuant to 28 U.S.C. § 1332.

5. This action was commenced on August 17, 2007 by filing the summons and complaint. A copy of the summons and complaint was served on the defendants on

September 24, 2007 by personal service on Anna Zaniowska by delivering a copy of the same and proof of service by the Process server was filed. The defendants have not answered the complaint and the time for the defendant to answer the complaint has expired.

6. This action seeks judgment for the liquidated amount of \$166,738.75 and disbursements of this action in the amount of \$505.00 for a total of \$167,243.75 as shown on the annexed Statement, which is justly due and owing, and no part of which has been paid except as therein set forth.

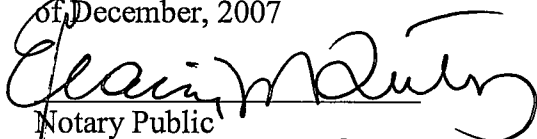
7. The disbursements sought to be taxed have been made in this action or will necessarily be made herein.

WHEREFORE, plaintiff requests the entry of Default and the entry of the annexed Judgment against defendant.

Dated: Darien, Connecticut  
December 4, 2007

  
Robert W. Finke

Sworn to before me this 4th day  
of December, 2007

  
Notary Public  
**ELAINE M. TEETERS**  
NOTARY PUBLIC  
MY COMMISSION EXPIRES FEB. 20, 2009

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**STATEMENT OF DAMAGES**

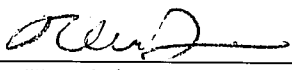
|                           |              |
|---------------------------|--------------|
| Principal amount sued for | \$166,738.75 |
| Interest                  | \$0.00       |

Costs and Disbursements:

|                                |          |
|--------------------------------|----------|
| Clerk's Fee                    | \$350.00 |
| Process Server fee for service | \$155.00 |
| Statutory fee                  | \$0.00   |

|        |              |
|--------|--------------|
| Total: | \$167,243.75 |
|--------|--------------|

THE PLAINTIFF  
ROBERTA WHIPPLE

By:   
Robert W. Finke (RF0834)  
Attorney for Roberta Whipple  
52 Duane Street, 5<sup>th</sup> Floor  
New York, New York 10007  
Tel. (212) 406-9522  
Fax. (646) 349-4561

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**CLERK'S CERTIFICATE**

I, J. MICHAEL MCMAHON, Clerk of the United States District Court for the Southern District of New York, do hereby certify that this action commenced on August 17, 2007 with the filing of a summons and complaint, a copy of the summons and complaint were served on the defendants by serving via personal delivery on the defendants Modesta, Inc., Anna Zaniewska and Kazimierz Zaniewski on September 24, 2007, and proof of such service was filed on October 9, 2007.

I further certify that the docket entries indicate that the defendants have not filed an answer or otherwise moved with respect to the complaint herein. The default of the defendants is hereby noted.

Dated: New York, New York  
\_\_\_\_\_

J. MICHAEL MCMAHON  
CLERK OF THE COURT

By: \_\_\_\_\_  
Deputy Clerk

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**DEFAULT JUDGMENT**

This action having been commenced on August 17, 2007 by the filing of the Summons and Complaint, and a copy of the Summons and Complaint having been personally served on the defendants MODESTA, INC., ANNA ZANIEWSKA and KAZIMIER ZANIEWSKI by personally delivering said Summons and Complaint to ANNA ZANIEWSKA on September 24, 2007, and a proof of service having been filed on October 9, 2007 and the defendant not having answered the Complaint, and the time for answering the Complaint having expired, it is

ORDERED, ADJUDGED AND DECREED: That the plaintiff have judgment against the defendant in the liquidated amount of \$166,738.75 plus costs and disbursements of this action in the amount of \$505.00 amounting in all to \$167,243.75.

Dated: New York, New York  
\_\_\_\_\_

\_\_\_\_\_  
U.S.D.J.

This document was entered on the docket  
on \_\_\_\_\_.